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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,249	11/03/2004	Kazuyoshi Yajima	5404/79	8933
7590		09/07/2007		
Brinks Hofer Gilson & Lione PO Box 10395 Chicago, IL 60610			EXAMINER AFREMOVA, VERA	
			ART UNIT	PAPER NUMBER
			1657	
			MAIL DATE	DELIVERY MODE
			09/07/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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10/500,249

11/03/2004

EXAMINER

ART UNIT

PAPER

20070831

DATE MAILED:

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Commissioner for Patents

The amendment filed on 6/11/2007 canceling all claims drawn to the elected invention and presenting only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03).

The amendment filed on 6/11/2007 narrows the claimed subject matter in all claims. Thus, the amendment filed on 6/11/2007 is canceling all claims drawn to the elected invention and presenting only claims drawn to non-elected invention, therefore, being a non-responsive amendment (MPEP § 821.03). The remaining claims are not readable on the elected invention because the elected invention is directed to the use of "Rhodobacter" (election without traverse of a single species of Rhodobacter (claim 31) in the reply filed on 8/15/2005). The originally elected "Rhodobacter" is bacteria and it is not "yeast" as required by the amended claim 1. The originally elected "Rhodobacter" is photosynthetic bacteria as admitted by applicants (see page 9, lines 1-2 of the last response 6/11/2007). The amended claim 1 requires the use of "nonphotosynthetic bacteria", thus, the amended claim 1 excludes and cancels the photosynthetic Rhodobacter. Therefore, the amended claims are not readable on the applicants' original election. Thus, the amendment filed on 6/11/2007 is non-responsive.

Since the above-mentioned amendment appears to be a bona fide attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vera Afremova whose telephone number is (571) 272-0914. The examiner can normally be reached from Monday to Friday from 9.30 am to 6.00 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jon P. Weber, can be reached at (571) 272-0925.

The fax phone number for the TC 1600 where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology center 1600, telephone number is (571) 272-1600.

Vera Afremova

AU 1657

August 31, 2007

VERA AFREMOVA
PRIMARY EXAMINER